

BUSINESS MEETING  
BEFORE THE  
CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

CALIFORNIA ENERGY COMMISSION  
HEARING ROOM A  
1516 NINTH STREET  
SACRAMENTO, CALIFORNIA

WEDNESDAY, OCTOBER 06, 2004  
10:00 A.M.

Reported by:  
Peter Petty  
Contract No. 150-04-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSION MEMBERS PRESENT

James D. Boyd, Commissioner

John L. Geesman, Commissioner

Jackalyne Pfannenstiel, Commissioner

STAFF PRESENT

Bill Chamberlain, Chief Counsel

Bob Therkelsen, Executive Director

Nick Bartsch

Nancy Tronaas

Jane Heinz

Daryl Mills

Jason Orta

Cecile Martin

Kristy Chew

Martha Brook

Leigh Stamets

Caryn Holmes

ALSO PRESENT

Stan Hazelroth, CA Infrastructure and  
Economic Development

Steven Kelly, IEP

Jeff Harris  
Ellison, Schneider & Harris L.L.P.

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 P R O C E E D I N G S

2 10:00 a.m.

3 CHAIRPERSON BOYD: Thank you everybody.

4 As you see, you are operating with a bare quorum  
5 up here today. You've got to dip down the pecking  
6 order to find a chairman even. Anyway, thank you  
7 all for being here.

8 I would first like to review the agenda.  
9 I mentioned some changes. Item 3 has been  
10 deferred to the October 20 meeting. As you noted,  
11 we have added items 18 and 19. The notice is  
12 posted on the front door, and I was just advised  
13 that item 18 is now deferred to October 20. It  
14 will be my intention to take up item 19, really it  
15 is like item 11 before we get to the housekeeping  
16 items.

17 Lastly with regard to agenda  
18 corrections, item 1 (a), I am advised that the  
19 dollar amount there for the second, the Lake  
20 Arrowhead Transportation item, the dollar amount  
21 should read \$2,000, not the \$5,000.

22 With that, I believe we have covered all  
23 the changes to the agenda. So, I would like to  
24 open up with agenda item 1, the consent calendar.

25 Any questions or a motion?

1 COMMISSIONER GEESMAN: So moved, Mr.  
2 Chairman.

3 (Thereupon, the motion was made.)

4 COMMISSIONER PFANNENSTIEL: I second.

5 (Thereupon, the motion was seconded.)

6 CHAIRPERSON BOYD: All in favor say "I"?

7 (Ayes.)

8 CHAIRPERSON BOYD: It passes three to  
9 nothing. Thank you.

10 Item 2, LaPaloma Generating Project,  
11 review of a petition intended to clarify start up-  
12 shut down parameters, increase start up NOx hourly  
13 emission limits, clarify ammonia injection  
14 requirements and other changes that affect air  
15 quality conditions of certification. Nancy  
16 Tronaas.

17 MS. TRONAAS: These proposed  
18 modifications to the La Paloma Generating Project  
19 include clarifying the definition of start up for  
20 consistency with vendor recommendations for  
21 turbine and operational efficiencies. Also allows  
22 for SCR ammonia injection at lower temperatures  
23 and allows for increasing the one hour NOx limits  
24 to allow for all four turbines to start up in the  
25 same time frame with no increase in daily or

1 annual emissions.

2 In general, the modifications proposed  
3 will allow for more efficient and flexible  
4 operating scenarios. The San Joaquin Valley Air  
5 District has revised their permits to reflect  
6 these changes.

7 Commission staff has determined there  
8 will be no significant unmitigated impacts from  
9 the proposed changes, and we recommended  
10 revisions to the air quality conditions of  
11 certification. We have not received any comments  
12 from the public on these proposed changes. We  
13 believe the findings of section 1769 can be made,  
14 and we recommend approval.

15 CHAIRPERSON BOYD: Thank you.

16 COMMISSIONER GEESMAN: Mr. Chairman.

17 CHAIRPERSON BOYD: Mr. Geesman.

18 COMMISSIONER GEESMAN: This item was  
19 reviewed by the Siting Committee, and I would  
20 recommend approval and so move.

21 CHAIRPERSON BOYD: Motion.

22 (Thereupon, the motion was made.)

23 COMMISSIONER PFANNENSTIEL: Second.

24 (Thereupon, the motion was seconded.)

25 CHAIRPERSON BOYD: And a second. Any

1 question? All in favor?

2 (Ayes.)

3 CHAIRPERSON BOYD: Any opposed?

4 The ayes have it three to nothing.

5 Thank you very much.

6 Item 4, Energy Efficiency Revenue Bond  
7 Program. Consideration and possible approval of a  
8 transfer of rights and responsibilities from the  
9 Power Authority to the California Infrastructure  
10 and Economic Development Bank regarding Energy  
11 Efficiency. Jane Heinz.

12 MS. HEINZ: Good morning. Staff is  
13 requesting this transfer of financing authority,  
14 responsibilities, and rights due to the fact that  
15 CPA budget has been cut so severely, and in order  
16 to be responsible to our bond holders, etc., we  
17 are recommending that move be made or transfer be  
18 made to the I Bank or Infrastructure Bank.

19 Also in the enabling legislation for the  
20 Eco Program, the I Bank is the only other  
21 financing authority that is stated to take over  
22 conduit financing authority.

23 Stan Hazelroth is here from the I Bank  
24 to make some comments or answer any questions you  
25 might have, and I'd like to introduce him a little



1 bit later. I wanted to give you a bit of context  
2 about the program. That is that in April 2003  
3 when the bonds were issued, we thought it would  
4 take about two years to loan the money out.

5 Within twelve months that happened, and we had a  
6 little hiccup and another loan was made about.

7 So, a total of fourteen months, \$28 Million went  
8 out the door for approximately 28 to 30 projects.

9 In terms of status, all the  
10 administrative details have been taken care of,  
11 the annual audit that is required, the disclosure  
12 statement to the trustee or the State Treasurer's  
13 Office, and the rebate arbitrage calculation has  
14 been made as well.

15 Three payments have been made for over  
16 \$28 Million or payments on the loan for \$28  
17 Million. I believe it is about \$4 Million that  
18 has been made according to the debt service  
19 schedule to the trustee or the State Treasurer's  
20 Office.

21 In terms of due diligence, staff has  
22 completed all of the background work with the  
23 private bond counsel and our CEC legal office  
24 along with CPA representatives and Power Authority  
25 representatives, the Infrastructure Bank, etc.

1           The State Treasurer's Office Trustee  
2   Team and bond counsel have provided an opinion  
3   that there are no adverse impacts on current bond  
4   holders because of this transfer.

5           Moody's Bond Rating Agency has provided  
6   a letter through the Treasurer's Office to us  
7   stating that the bond rating will be unaffected.  
8   It is currently at a AA3. Our bond team will be  
9   consistent due to the fact that contracts have  
10   been established between the Energy Commission and  
11   those entities directly. That's the bond team,  
12   the auditor, the rebate arbitrage specialist, and  
13   also financial advisor.

14           One other thing that this transfer is  
15   going to allow us to do is amend a couple of the  
16   documents and one would be something that the  
17   Finance Branch here at the Energy Commission  
18   really was happy to see happen. That was that  
19   five of the seven sub-accounts would be under the  
20   Energy Commission's control and enable us to  
21   streamline some of our reporting requirements and  
22   financial dealings.

23           In terms of the resolutions from the  
24   other voting bodies being the Infrastructure Bank  
25   and the cpa, the Infrastructure Bank voted about a

1 week ago to accept the transfer of authority  
2 contingent upon CPA's approval.

3 CPA will be meeting on the 12th. Their  
4 meeting has been set over a few times due to some  
5 internal scheduling conflicts, etc. with their  
6 commissioners, but we don't see any problems there  
7 for them to approve the transfer.

8 At this point, I would like to introduce  
9 Stan Hazelroth from the I Bank to make some  
10 comments.

11 MR. HAZELROTH: Thank you very much, Mr.  
12 Chairman and members of the Commission.

13 The Infrastructure Bank is excited about  
14 participating in this program. We have since the  
15 inception of the bank, we have reached our \$10  
16 billion mark this year in terms of financing  
17 conduit financing for a variety of State of  
18 California programs.

19 We are Governor Schwarzenegger's one  
20 sort of general purpose financing authority. The  
21 name "Infrastructure and Economic Development  
22 Bank" becomes a little bit deceptive as we have  
23 branched out into leveraging the Clean Water  
24 Program. We are working now on tribal gaming. We  
25 just did SIGA for the Insurance Guarantee

1 Association, which involved worker's comp. We  
2 have worked on a pass financing for the Bay  
3 Bridge, a seismic retrofit program, and we are  
4 constant contact about what's to be done for the  
5 next phase of that as costs become a little  
6 allusive.

7           Anyway, we have a lot of experience in a  
8 variety of different leveraging and financing  
9 programs, and we are happy to be of assistance  
10 here and work with your staff.

11           I should say that many times we come in  
12 to leverage an existing revolving fund or program  
13 that can become a upper involving fund program,  
14 and we find that sometimes it is a challenge to  
15 put the documentation together, put the right  
16 types of details into each loan file and  
17 everything, but we have been discussing with your  
18 staff for some time the fundamental pieces of the  
19 program, and they have done an excellent job in  
20 setting up this program, monitoring it, and  
21 keeping it going forward. This actually looks  
22 like a pretty easy assignment working with them.

23           CHAIRPERSON BOYD: I'm glad to hear  
24 that. We have a willing recipient and a seemingly  
25 seamless process involved there, and so that's

1 very good. Thank you very much.

2 MS. HEINZ: At this point, we would like  
3 to ask for your approval on the transfer of  
4 authority.

5 CHAIRPERSON BOYD: Any questions or --

6 COMMISSIONER GEESMAN: I have a  
7 question. This may be a legal question more than  
8 anything else. When we entered in to the  
9 transaction, I believe there was a covenant made,  
10 and I don't know if we made the covenant or the  
11 Power Authority did to meet the continuing  
12 disclosure requirements that federal securities  
13 laws impose.

14 I don't see that continuing disclosure  
15 obligation mentioned or described in the  
16 resolution, but I would presume that because of  
17 this transfer, a disclosure will in fact have to  
18 be made to one of the information repositories.  
19 Can you tell me whose responsibility that is and  
20 provide some assurance that disclosure will  
21 actually be made?

22 MS. HEINZ: I am going to try and answer  
23 that, and I can ask Daryl Mills to come up and  
24 give a comment about that too.

25 All of those bond documents, the bond

1 indenture, the secured loan agreement, etc., they  
2 have all been amended to reflect this change. I  
3 believe that it is in the bond indenture, and I  
4 think also the secured loan agreement where it  
5 describes your duties. One of those is to make  
6 the filings for the annual disclosure report to  
7 the trustee or the Treasurer's Office, and then I  
8 believe that goes out to the different bond  
9 holders, etc.

10 COMMISSIONER GEESMAN: That's an Energy  
11 Commission responsibility?

12 MS. HEINZ: Correct.

13 COMMISSIONER GEESMAN: Okay.

14 MS. HEINZ: Right. That was filed I  
15 believe in June I think we filed that.

16 MR. MILLS: Yes. Continuing disclosure.

17 CHAIRPERSON BOYD: Daryl, identify  
18 yourself.

19 MR. MILLS: I am Daryl Mills, Public  
20 Programs Office. The continuing disclosure report  
21 is filed by the Energy Commission to the trustee  
22 annually. The trustee submits all continuing  
23 disclosure reports from all state bonds on April  
24 1st of each year, so we file ours approximately  
25 February 15 with the State Treasurer's Office.

1           We have submitted one, we will be  
2     submitting another one around January.

3           COMMISSIONER GEESMAN: This transfer  
4     doesn't change the responsibility for doing that?

5           MR. MILLS: No.

6           COMMISSIONER GEESMAN: Mr. Chairman, I  
7     would move approval.

8           (Thereupon, the motion was made.)

9           CHAIRPERSON BOYD: There's been a  
10    motion.

11          COMMISSIONER PFANNENSTIEL: Second.

12          (Thereupon, the motion was seconded.)

13          CHAIRPERSON BOYD: Second. All in favor  
14    say aye?

15          (Ayes.)

16          CHAIRPERSON BOYD: Any opposed?

17          The ayes have it three to nothing.

18          Thank you very much. Again, it sounds  
19    like we all look forward to a seamless and legal  
20    transfer responsibility.

21          Item 5, Reconciliation of Retailer  
22    Claims, 2003 Report. Possible approval of the SB  
23    1305 report.

24          MR. ORTA: Yes, hi. I'm Jason Orta, the  
25    principle author of that report. The

1 Reconciliation of Retailer Claims 2003 Report is a  
2 report that measures the program strength of the  
3 power source disclosure program that was created  
4 by SB 1305 of 1997.

5 This report reconciles specific purchase  
6 claims made by retail electric providers with  
7 actual generator production. It shows program  
8 growth, and also new to this report this year is  
9 an appendix that serves as a report card if you  
10 will that measures program compliance.

11 Program compliance includes everybody  
12 has to submit power of content labels on a  
13 quarterly basis. Those who claim specific  
14 purchases on their labels or on any other  
15 marketing materials have to submit annual reports  
16 detailing their claims to the Commission.

17 This report card shows that for 2003, 23  
18 retail providers claim specific purchases, 22 of  
19 those actually submitted annual reports to us.  
20 Two other companies which we refer to as power  
21 pools also submitted annual reports to us.

22 We did receive two additional annual  
23 reports over the last month, and that puts up our  
24 specific purchases total to 103,241 gWh of  
25 specific purchases claimed of which 16,418 gWh of



1 those claims are renewable. 374 generating  
2 facilities were claimed, and these generating  
3 facilities produced 224,289 gWh.

4 Out of 53 retail providers, 43 retail  
5 providers submitted power content labels, 41 of  
6 those submitted quarterly labels while there were  
7 two others that just submitted annual labels.

8 Out of the 41 providers that submitted  
9 power content labels, 21 of those claimed net  
10 system power, while 20 of them made claims on  
11 their quarterly labels. We have also received  
12 retail providers that make specific claims are  
13 supposed to send an annual true up label, which  
14 uses the most recent net system power, the 2003  
15 net system power to calculate their fuel mix, and  
16 we have received 14 of those.

17 We sent out a draft of this report in  
18 early September. It has been a very positive  
19 responses by retail providers. They have been  
20 very helpful in getting us additional labels, and  
21 we are also able to pick up two additional annual  
22 reports.

23 Over 98 percent of all retail sales,  
24 customers of those that are represented by those  
25 sales have received power content labels. Right

1 now, roughly 50 percent of California's retail  
2 electric sales are represented by specific  
3 purchases, and that is a number that we expect to  
4 increase next year.

5 So, based on these findings, there is  
6 enough generation to meet the claims that were  
7 made by retail providers, and the appendix, that  
8 is the report card that shows program compliance  
9 shows progress made by retail providers in meeting  
10 the program requirements, and I am seeking the  
11 Commission's approval of this report.

12 CHAIRPERSON BOYD: Thank you, Jason. I  
13 commend the staff for their report card, and I  
14 think that is a positive piece of progress having  
15 watched this program for the two plus years that  
16 I've been here. I think it is now revealing even  
17 more information to the public, which I think is  
18 certainly a responsibility of ours. Thank you.

19 Any questions, comments, or discussion?

20 COMMISSIONER GEESMAN: This may be a  
21 question for Cece, but is the clean up on SB 1305  
22 included as --

23 CHAIRPERSON BOYD: Cecile, are you  
24 listening?

25 COMMISSIONER GEESMAN: Is the clean up

1 of SB 1305 included among our legislative  
2 initiatives? We have the on going problem with  
3 net system power as an increasingly unworkable  
4 concept.

5 MS. MARTIN: Yes, it is. It is one of  
6 our proposals, and that is what I was discussing  
7 with Drake Johnson whether or not we should  
8 include that 50 percent number.

9 COMMISSIONER GEESMAN: With the  
10 understanding that we are going to attempt once  
11 again to have the legislature address the  
12 increasingly misleading nature of the concept of  
13 net system power, I would move approval.

14 (Thereupon, the motion was made.)

15 COMMISSIONER PFANNENSTIEL: I'll second.

16 (Thereupon, the motion was seconded.)

17 CHAIRPERSON BOYD: There has been a  
18 motion and a second.

19 All in favor?

20 (Ayes.)

21 CHAIRPERSON BOYD: Any opposed?

22 The ayes have it three to nothing.

23 Thank you, and I also, we all wait patiently for  
24 improvement in that overriding question.

25 Thank you staff.

1           Item 6, Siting Rulemaking OIR,  
2   consideration and possible adoption of an Order  
3   Instituting Rulemaking to adopt, amend, and repeal  
4   various regulations pertaining to the Energy  
5   Commission's Rules of Practice and Site  
6   Certification. Ms. Kristy Chew.

7           MS. CHEW: Good morning, Commissioners.  
8   My name is Kristy Chew, I am with the Siting  
9   Division. Staff has begun working on amending the  
10   regulations governing the rules of practice in  
11   site certification.

12           Currently, staff plans to address the  
13   following subject areas in this proceeding. The  
14   first one is regulations governing the six month  
15   siting process.

16           The second item is critical changes to  
17   the twelve month data adequacy regulations.  
18   Included in that would be data adequacy  
19   regulations for plants within the coastal zone.  
20   Staff is working with the Coastal Commission staff  
21   on developing these regulations.

22           The third item is administrative  
23   procedure act conformity.

24           The fourth item are any other changes  
25   that are raised by Committee, staff, or the public

1 during this proceeding.

2 COMMISSIONER GEESMAN: Mr. Chairman, we  
3 reviewed this in the Siting Committee. I would  
4 recommend approval to get the process started.

5 (Thereupon, the motion was made.)

6 CHAIRPERSON BOYD: I have a motion from  
7 Commissioner Geesman.

8 COMMISSIONER PFANNENSTIEL: Second.

9 (Thereupon, the motion was seconded.)

10 CHAIRPERSON BOYD: I have a second. All  
11 in favor say aye.

12 (Ayes.)

13 CHAIRPERSON BOYD: Any opposed?

14 Thank you, Kristy, that was easy.

15 All right, item 7, possible approval of  
16 Contract 160-01-001 Amendment 1, for \$74,308, to  
17 extend the term and augment the Budget for our let  
18 me just say Federal Relations consultant, Brian  
19 Castelli. Ms. Cecile Martin.

20 MS. MARTIN: Good morning. This is a  
21 one year extension of Brian Castelli's contract.  
22 He served us for three years. The original  
23 contract was competitively bid, but because the  
24 State is discussing some kind of reorganization,  
25 and we would normally go out for an additional

1 three year contract, we thought it would be  
2 prudent to just go forward with the one year  
3 extension until we have a better sense of what  
4 kind services we will need in the future.

5 CHAIRPERSON BOYD: Very diplomatically  
6 put. Thank you. We have this item before us.

7 COMMISSIONER PFANNENSTIEL: I'll move  
8 the item.

9 (Thereupon, the motion was made.)

10 COMMISSIONER GEESMAN: Second.

11 (Thereupon, the motion was seconded.)

12 CHAIRPERSON BOYD: We have a motion and  
13 a second.

14 All in favor aye?

15 (Ayes.)

16 CHAIRPERSON BOYD: Any opposed?

17 No opposed. It carries three to  
18 nothing. Thank you.

19 Item 8, Lawrence Berkeley National  
20 Laboratory, possible approval of Contract 500-04-  
21 005 for \$600,000 for research on residential  
22 ventilation technologies, etc. We have Martha  
23 Brook.

24 MS. BROOK: Good morning. I am Martha  
25 Brook with the PIER Buildings Program. This

1 proposed research along with the Wilcox Contract  
2 that is the next item on the agenda, implements  
3 the PIER Buildings Program Plan to fund research  
4 and development to support the 2008 Title-24  
5 Residential Building Energy Efficiency Standards.

6 This proposed contract with Lawrence  
7 Berkeley National Laboratory will focus primarily  
8 on residential ventilation standards. The  
9 research will include the review of the National  
10 Residential Ventilation Standards to understand  
11 their applicability to California given our  
12 building codes, our construction practices, and  
13 our climate.

14 The work will recommend new residential  
15 ventilation requirements for California, for our  
16 Energy Efficiency Standards, and it will evaluate  
17 available technologies and their ability to meet  
18 these ventilation requirements.

19 Algorithms will be developed to model  
20 the energy performance of ventilation technologies  
21 and recommendations will be made for ventilation  
22 technologies that are energy efficient and provide  
23 good indoor air quality.

24 This item has been reviewed and approved  
25 by the R & D Committee, and I would be glad to

1 answer any questions that you might have.

2 CHAIRPERSON BOYD: Thank you. Any  
3 questions or comments?

4 COMMISSIONER GEESMAN: I would move the  
5 item, Mr. Chairman.

6 (Thereupon, the motion was made.)

7 COMMISSIONER PFANNENSTIEL: I'll second.

8 (Thereupon, the motion was seconded.)

9 CHAIRPERSON BOYD: A motion and a  
10 second.

11 All in favor aye?

12 (Ayes.)

13 CHAIRPERSON BOYD: Any opposed?

14 No opposed.

15 The item carries three to nothing.

16 Thank you, and you want to continue with the next  
17 item, Martha.

18 MS. BROOK: The PIER Buildings Program  
19 has worked closely with the Commission's Title-24  
20 program manager to identify specific research and  
21 development project that would best support future  
22 enhancements to California residential building  
23 energy efficiency standards.

24 This proposed contract along with the  
25 one you just approved will gather information,



1     conduct analysis, and develop models that will be  
2     used in the 2008 standards development processes.

3             This item has also been reviewed and  
4     approved by the R & D Committee, and I would be  
5     glad to answer any questions that you might have.

6             CHAIRPERSON BOYD: Thank you. I think I  
7     should mention for the record, that this is  
8     Contract 500-04-006 in the amount of \$965,053.  
9     Any questions or comments from the Commission  
10    members?

11            COMMISSIONER GEESMAN: Just to confirm,  
12    the contract will have multiple people working on  
13    this?

14            MS. BROOK: That's right. Bruce Wilcox  
15    is the residential expert that the Standards  
16    Office have used for many years, and he was found  
17    under a solicitation process. He is going to be  
18    hiring multiple researchers and conducting the  
19    research in a team fashion.

20            COMMISSIONER GEESMAN: I'd move the  
21    item.

22            (Thereupon, the motion was made.)

23            COMMISSIONER PFANNENSTIEL: I'll second.

24            CHAIRPERSON BOYD: We have a motion and  
25    a second.

1 All in favor aye?

2 (Ayes.)

3 CHAIRPERSON BOYD: Any opposed?

4 None. It carries three to nothing.

5 Thank you, Martha.

6 Item 10, University of California Davis,  
7 Office of the Chancellor For Research Sponsored  
8 Programs. This is possible approval of contract  
9 300-97-009 Amendment 8, for \$107,000 to add funds  
10 and extend for one year the contract for a UC  
11 Davis student interns to provide support for  
12 electric, natural gas and petroleum forecasting,  
13 demand and infrastructure analysis. We have Mr.  
14 Leigh Stamets.

15 MR. STAMETS: Good morning. I am asking  
16 your approval of this amendment to allow us to  
17 continue to use UC Davis interns in support of our  
18 analysis in the Efficiency and Demand Analysis  
19 Division and also the Transportation Division.

20 This work supports analysis in the  
21 electricity, natural gas, and petroleum sectors.  
22 It allows us to take advantage of the latest  
23 skills, especially in the graduate school at UC  
24 Davis, and then also allows the interns and  
25 students to apply their academic skills.

1 Thank you.

2 CHAIRPERSON BOYD: Thank you. Any  
3 questions, comments?

4 COMMISSIONER GEESMAN: I move the item.

5 (Thereupon, the motion was made.)

6 COMMISSIONER PFANNENSTIEL: Second.

7 CHAIRPERSON BOYD: Motion and second.

8 All in favor aye?

9 (Ayes.)

10 CHAIRPERSON BOYD: No opposed. It  
11 carries, Leigh, thank you very much. Even though  
12 I went to UC Berkeley, I can handle UC Davis too.

13 The next item as I announced at the  
14 beginning of the meeting would be item 19 or  
15 listed as 19, California Independent System  
16 Operator subpoena consideration and possible  
17 adoption of a subpoena directing the CA ISO to  
18 provide data relevant to issues associated with  
19 the resource adequacy for the summer of 2005.  
20 Caryn Holmes is presenting the item.

21 Ms. HOLMES: Thank you. What I just  
22 handed out to you is very similar to what you  
23 previously received in your agenda packages, but  
24 as staff worked through the data identification  
25 process, some of the specific descriptions of data

1 changed, so this is identical with the exception  
2 of the fact that the items are worded a little bit  
3 differently. One other change is that there is a  
4 due date of three weeks rather than two weeks.

5 Let me step back to the beginning. This  
6 is a third ISO subpoena that you have seen in the  
7 last couple of months. We are working with the  
8 ISO to perform various resource assessments  
9 associated with the aging power plant as well as  
10 some work that we are doing with the Joint Agency  
11 Energy Action Committee.

12 This specific list of data is directed  
13 at concerns that have been raised about resource  
14 adequacy for the summer of 2005. The ISO has  
15 worked with the Energy Commission staff to develop  
16 a list of data and they do not have any opposition  
17 to granting the subpoena at this time.

18 CHAIRPERSON BOYD: Okay, thank you. I  
19 am going to mention for the benefit of the  
20 audience that to my knowledge and other  
21 commissioners did receive an original version of  
22 this item, so this is the first time that I know  
23 Commissioner Pfannenstiel has seen the item, and I  
24 am going to give her a minute to look at it.

25 Commissioner Geesman and I as the IEPR

1 Committee this morning got the benefit of a  
2 discussion of this item, and so we are familiar  
3 with the subject here, but Commissioner  
4 Pfannenstiel may need a moment or so to study the  
5 paper or maybe --

6 COMMISSIONER PFANNENSTIEL: This is  
7 similar circumstance what we have seen before that  
8 they can't provide the data unless we subpoena it,  
9 and so we agree with them in advance on  
10 specifically what we need?

11 MS. HOLMES: That's correct. Their FERC  
12 approved tariff requires that they not release  
13 certain data except in response to a subpoena or  
14 an administrative order, so they have asked us to  
15 request the information this way and the specific  
16 data items that are listed there, items 1 through  
17 8, were developed jointly between the Energy  
18 Commission staff and the ISO staff, and they have  
19 approved that.

20 COMMISSIONER PFANNENSTIEL: Thank you.

21 CHAIRPERSON BOYD: Another friendly  
22 subpoena to the CA ISO.

23 MS. HOLMES: Thank goodness.

24 CHAIRPERSON BOYD: Yes.

25 COMMISSIONER GEESMAN: I move the item.

1 (Thereupon, the motion was made.)

2 COMMISSIONER PFANNENSTIEL: Second.

3 (Thereupon, the motion was seconded.)

4 CHAIRPERSON BOYD: It has been moved and  
5 seconded. All in favor say aye.

6 (Ayes.)

7 CHAIRPERSON BOYD: None opposed. Thank  
8 you, you have your subpoena.

9 MS. HOLMES: Thank you.

10 CHAIRPERSON BOYD: Oops.

11 MR. KELLY: Who do I give this to?

12 CHAIRPERSON BOYD: On this item?

13 MR. KELLY: All right. We have a little  
14 procedural faux pas. I guess I will formally  
15 reopen the item because we have someone who would  
16 like to speak to the item, someone fairly familiar  
17 to us, Mr. Kelly. Would you like to address the  
18 item, and we may have to table that vote.

19 MR. KELLY: I'm always happy to stumble  
20 by the Commission on a Wednesday morning to speak  
21 to you. Thank you.

22 I obviously was not aware of this issue,  
23 it wasn't agendized, so I didn't come specifically  
24 to speak to this, but now that I have read it, I  
25 have some questions or comments on this.

1           Having spent at least a year and a half  
2   working with the Commission on developing the  
3   means by which generators submit data to the  
4   Commission for purposes of your reporting which  
5   included the IEPR, which includes confidentiality  
6   provisions, which allow a generator to approach  
7   the Commission in writing and make the case for  
8   confidential treatment of individual generator  
9   related data. We have an mechanism in place for  
10  the Commission for that, and that has been in  
11  place for a couple of years.

12           As I understand the subpoena, it is a  
13  means by which the Commission can obtain data from  
14  the ISO, not providing any opportunity for a  
15  generator to seek confidential treatment of this.  
16  It is not clear to me whether this information is  
17  going to be treated confidentially or not, or how  
18  it is going to be integrated into your processes.

19           A lot of this information I would  
20  venture to guess just reading the description of  
21  it, may well be deemed in some other circumstance  
22  as confidential because it has commercially  
23  sensitive data.

24           You scheduled generation, your actual  
25  generation, your PMAX, all these services that you

1 provided and so forth have I believe probably some  
2 proprietary context to them.

3 It is not clear to me how this subpoena  
4 and your access of this information vis a vis the  
5 subpoena from the ISO is going to be integrated  
6 into the existing structure because I don't think  
7 a generator is going to be able to come to you and  
8 say wait a minute, we've got concerns about this.

9 CHAIRPERSON BOYD: Ms. Holmes, would you  
10 like to address that since I know we discussed it  
11 today?

12 MS. HOLMES: Yeah. This process is  
13 actually a little bit different from the Energy  
14 Commission's typical process because we are  
15 issuing a subpoena to another entity rather than  
16 asking for the information directly from  
17 generators.

18 The way the process works is that we  
19 issue the subpoena and then we work with the ISO  
20 to determine which information is confidential or  
21 not. The ISO makes a preliminary call as to what  
22 they think is or is not.

23 When they have received assurances from  
24 the Energy Commission that what the ISO believes  
25 is confidential, will be treated as confidential



1 by the Energy Commission, the ISO then issues what  
2 they call a ten-day market notice to market  
3 participants who have submitted this data to the  
4 ISO and give them a chance to weigh in on whether  
5 or not there are additional concerns about release  
6 of the data.

7 My understanding from conversations with  
8 the ISO is that there has not been a circumstance  
9 in which a generator once provided with that  
10 notice has had an objection to the ISO releasing  
11 the information to the Energy Commission under  
12 protection of confidentiality.

13 CHAIRPERSON BOYD: Mr. Kelly, does that  
14 relieve your stress some what?

15 MR. KELLY: I'm not certain. I don't  
16 the historical pattern here. It is not clear to  
17 me where the information asks in the past is  
18 something that was deemed confidential so  
19 generators might not have responded to the ISO's  
20 notice.

21 I am not that familiar with how the ISO  
22 deals with that. I just have some concern here  
23 that would be implementing a procedure that  
24 hasn't, at least from the generator perspectives,  
25 have not been fully understood or vetted to

1 determine whether or not this process is a  
2 suitable means for conveying confidential  
3 information to the Commission.

4 We are strong supporters of the  
5 Commission engaging in the IEPR reports, so don't  
6 get me wrong there, but we want to make sure that  
7 is done in a manner in which truly confidential  
8 information is held confidential and there is a  
9 clear opportunity for generators to make that  
10 case.

11 I'm not familiar with the ISO  
12 procedures. I don't know what happens when a  
13 generator objects to the ISO process or the ten  
14 day notice. Is there a formal what are called  
15 administrative hearing on that at the ISO like you  
16 would have here at the Commission. Those are  
17 unknowns to me.

18 Again, I apologize. I hadn't seen this  
19 until this morning, so I just don't know how that  
20 all plays out.

21 MS. HOLMES: Perhaps I can offer a  
22 little bit of context. The Energy Commission has  
23 collected information under two subpoenas that  
24 were issued previously this summer. The majority  
25 of that information was deemed confidential by the

1 ISO and by the Energy Commission. There were a  
2 couple of items which were discovered to be  
3 publicly available, and we no longer needed to  
4 request them via subpoena.

5 My understanding, again, is that the  
6 generators were all provided notice of the  
7 subpoena and had a chance to raise concerns about  
8 how confidentiality was being addressed by the ISO  
9 and the CEC and that none did so.

10 MR. KELLY: Is this a matter that needs  
11 to be decided today? Is this a matter that can be  
12 put over to the next business meeting so that I  
13 can check with my members and check with the  
14 processes at the ISO so that we can get some  
15 comfort with this?

16 MS. HOLMES: My understanding is that  
17 the staff believes that it is important to have  
18 the information as soon as possible. Because we  
19 do have to go through this process to assure that  
20 confidential treatment is properly designated and  
21 properly treated confidential, we need to have  
22 lead time. That is why we are asking for it  
23 today.

24 CHAIRPERSON BOYD: Mr. Therkelsen, did  
25 you have a comment on that, question?

1           MR. THERKELSEN: No, I would just  
2     concurring with Caryn's statement, that basically  
3     it is information that we need to move forward on.  
4     There is the process that the ISO participates in  
5     and we have used this before. The information is  
6     of some urgency.

7           CHAIRPERSON BOYD: Mr. Harris, you've  
8     submitted a card, did you want to address this  
9     item as well? Steve, is this an appropriate time  
10    to interrupt you with --

11          MR. KELLY: I'll stick around.

12          MR. HARRIS: Thank you, Commissioner  
13    Boyd. This may just be another case of Caryn  
14    being smarter than me again. I'm not sure I  
15    understand the procedures and the process. I  
16    think that is what Mr. Kelly is articulating, a  
17    concern about how the information will be treated.  
18    There has been a long process on that. Maybe  
19    Caryn can answer the question. You said there is  
20    a ten-day process. Nobody has objected in the  
21    past. I guess two questions.

22                 Is that ten-day process specific to  
23    subpoenas or is it just general information  
24    requests?

25          MS. HOLMES: My understanding is, I'm

1 relating to you what the ISO attorney has told me  
2 is that when they receive confirmation from us,  
3 that we will treat information confidential, that  
4 the ISO believes is confidential. At that point,  
5 they send out a ten-day notice to anybody who has  
6 submitted the information and say we are planning  
7 to release this to the Energy Commission pursuant  
8 to the Energy Commission's subpoena, and they  
9 attach the letters of confidential designation  
10 signed by the Executive Director to that.

11 Those market participants then have ten  
12 days to object or raise any concerns. That has  
13 not happened. We've gotten the information back  
14 from the ISO and have treated it, as I said, the  
15 information that was designated as confidential by  
16 Mr. Therkelsen as confidential.

17 MR. HARRIS: That process definitely  
18 applies in a subpoena situation?

19 MS. HOLMES: That is what the litigation  
20 counsel for the ISO has told me.

21 COMMISSIONER GEESMAN: It is my  
22 impression, Jeff, that this is the tariff  
23 provision in the ISO's tariff of how to deal with  
24 subpoenas received from a governmental agency so  
25 that it is something that the ISO has been through

1 several times with us and I think a number of  
2 times with respect to other governmental agencies.

3 It is that process that Caryn is  
4 describing and that we are relying on.

5 MR. HARRIS: I guess then the second  
6 question I would have on that would be nobody has  
7 objected in the past, but if they do object, what  
8 is the process? Is it a FERC litigation appeal.  
9 If one of the Steven's generators decides that  
10 they think this particular information is  
11 confidential, and I think what I have heard today  
12 here is that ISO makes a judgement on what they  
13 believe receives confidential treatment. Being a  
14 lawyer and always going to the dark place, what if  
15 the generators in the ISO disagree on that? Is  
16 there redress for the generator of FERC  
17 jurisdictional process to the tariff?

18 MS. HOLMES: I don't know the specific  
19 answer to your question. I do know that when I  
20 discussed this with the ISO earlier this year, he  
21 indicated to me that the ISO would have to be  
22 comfortable with all the confidentiality concerns  
23 were resolved before they released the information  
24 to the Energy Commission.

25 MR. HARRIS: So it may be a FERC

1 jurisdictional appeal then it sounds like, but we  
2 don't know the answer to that.

3 COMMISSIONER GEESMAN: It is certainly  
4 something that is governed under the ISO tariff,  
5 and we never see the information until they have  
6 willingly provided it to us.

7 MR. HARRIS: Obviously the basis of the  
8 concern here is this Commission does an excellent  
9 job of masking generator specific information,  
10 which is really I think what the individual  
11 generators care about. I haven't seen the revised  
12 subpoena and the language that's there, but what I  
13 did see this morning in the back room, it looks to  
14 be pretty much -- the other one was generator  
15 specific, so maybe we've changed that language.

16 MS. HOLMES: What you have in front of  
17 you is what was at the back of the room this  
18 morning. I believe that a good deal of that  
19 information is going to be generation specific  
20 data that will be entitled to automatic  
21 confidentiality under the Commission's  
22 regulations.

23 Unfortunately, we weren't able to  
24 complete an evaluation of the confidentiality of  
25 all of the data prior to the business meeting. I

1 agree with you that a good deal of that is going  
2 to be generator specific information.

3 MR. HARRIS: Okay, and that's obviously  
4 the concern that IEP has is that protecting the  
5 individual generator's information, what might --  
6 information about the individual generator might  
7 not appear instantaneously to be competitively  
8 sensitive, so again, maybe this is an issue of us  
9 not understanding well enough about the process,  
10 but we wanted to articulate our concerns.

11 COMMISSIONER GEESMAN: I think it has  
12 come up fairly abruptly as concerns have arisen  
13 about the situation next summer, and we and the  
14 governor's office are attempting to get on top of  
15 that question from an informational standpoint.  
16 That is why it has showed up on our agenda as  
17 quickly as it has, and that is why I think we feel  
18 the time pressure to move forward fairly quickly  
19 as well.

20 CHAIRPERSON BOYD: I think the consensus  
21 of the Commissioners here is to agree with the  
22 staff on the need to move on this. You raise good  
23 points, we actually had some discussions like this  
24 ourselves this morning. I think what I would like  
25 to suggest in reference to Mr. Kelly's question



1 about whether we would put this off or not is to  
2 say we would like to proceed on the action that we  
3 have just taken that you continue a dialogue with  
4 the staff on this issue, and I guess this is the  
5 test case to watch this one move through the  
6 process and assure yourselves and ourselves that  
7 the confidentiality that you seek and that we are  
8 interested in seeing occur, does take place in  
9 this particular case.

10 My earlier reference to friendly  
11 subpoena was our track record so far has been it's  
12 been I wouldn't say a no brainer, but it has been  
13 fairly smooth and "friendly" and you have heard  
14 the genesis of concern the ISO itself has caused a  
15 lot of concern of late with regard to what the  
16 future might look like. So, I think it is in our  
17 collective interest to get on top of that.  
18 Hopefully, you can see our need for having to move  
19 this along, and you can in a friendly manner,  
20 therefore, watch the process.

21 It sounds to me like it is fairly tight.  
22 If you really did receive -- when you get your ten  
23 day notice and observe some concern, it sounds  
24 like the ISO is quite capable of holding the  
25 information until the issue is resolved. If the

1 issue is not resolved, we don't see the  
2 information quite possibly.

3 Mr. Kelly.

4 MR. KELLY: Two comments. Because I  
5 share with you the interest in the concern for  
6 next summer and the study work that needs to be  
7 done to clarify resource adequacy for next year.  
8 So, recognize that.

9 One, is this subpoena only applicable  
10 for a twelve month period so it only applies to  
11 next year? I mean once this authority is granted,  
12 does this persist for the next ten to fifteen  
13 years when there is no longer a crisis next  
14 summer. That is the one question.

15 The second observation is I think it  
16 would be helpful if staff can work with the ISO  
17 staff when they release their notice to the market  
18 place about what's going on, to have a full  
19 description because I have this concern that  
20 generators won't understand that they may well be  
21 seating some protections that had work strong with  
22 your staff years ago to create for them because it  
23 will come out at the ISO as an administrative  
24 subpoena that we have no choice to answer. You  
25 know it is kind of like the FERC subpoenas and

1 everybody just sits back and let's it happen  
2 because they don't understand what is going on.

3 Quite frankly, I don't really understand  
4 either at this point. It is just one reason that  
5 I'd ask for a little continuance here. When that  
6 notice goes out from the ISO just as it goes out  
7 with all their FERC related subpoenas, the market  
8 participants will probably stay silent as they  
9 have in the past. They may not fully understand  
10 that there could be a change in the confidential  
11 treatment or the rights vis a vis the confidential  
12 data that they have.

13 CHAIRPERSON BOYD: Mr. Kelly, do you  
14 really think that will happen because as a result  
15 of your concerns and issues today, and I am sure  
16 your organization will be alerting its membership  
17 to this issue --

18 MR. KELLY: Undoubtedly that will occur,  
19 but there are some wayward generators out there  
20 who are not in my association.

21 COMMISSIONER GEESMAN: I think it is  
22 important to point out, Steve, that if you look at  
23 the last full paragraph on page one from the  
24 bottom of the page, it says, "The data needed by  
25 the Energy Commission consists of the following

1 specific information from 2003 to the most recent  
2 date available as well as updates to these data on  
3 a monthly basis for the next year." I am going to  
4 guess your members have not seen a prospective  
5 request like that previously coming through this  
6 process? Otherwise, we are attempting to follow  
7 the existing process that has been established  
8 both here and under the ISO's tariff.

9 MS. HOLMES: I'd just like to add one  
10 more piece of information for context. That is  
11 that in response to the previous two subpoenas,  
12 the ISO has submitted letters to us claiming that  
13 all of the information that the Energy Commission  
14 has requested is confidential and they won't  
15 initiate market notice until we agree to that  
16 information being treated as confidential  
17 information.

18 Subsequently, we have discovered that  
19 not an insignificant part of that information has  
20 already been deemed publicly available, and when  
21 we have pointed that out to the ISO, we have  
22 informed them that we don't need to follow up on  
23 the subpoena anymore with respect to those items  
24 because they are publicly available.

25 So, to the extent that your concern is

1     that the ISO is going to be left protective of  
2     data, then the Energy Commission, that is  
3     something we simply haven't seen so far in this  
4     process.

5                 MR. HARRIS:  Commissioner, could I offer  
6     an observation and then ask a question about the  
7     process?

8                 CHAIRPERSON BOYD:  Certainly.

9                 MR. HARRIS:  The observation is that  
10    your legal team is outstanding.  Maybe this is  
11    understood, but would the Commission approval be  
12    subject to allowing your legal team to slightly  
13    modify as necessary to make sure that the scope of  
14    the request is consistent with your authorities  
15    and your protection for confidential information?

16                In other words, if they find something  
17    between now and the issuance of the subpoena that  
18    makes them want to re-craft their language, do  
19    they have the authority to do that?

20                MS. HOLMES:  This is the subpoena, and  
21    we are asking specifically, staff is asking  
22    specifically that the Commission adopt this list  
23    of information that was developed jointly by the  
24    ISO and the Energy Commission staff.  We don't  
25    anticipate the need given the fact that we have

1 had that cooperation with the ISO staff, we do not  
2 anticipate the need to modify that list of  
3 information.

4 We had hoped to be able to address the  
5 confidentiality concerns expressly in the  
6 subpoena. Given the relatively short time frame  
7 that we had to request the data, we weren't able  
8 to do so. That will happen through a series of  
9 letters that are publicly available between us and  
10 the ISO. Does that help?

11 MR. HARRIS: Let me say one thing. We  
12 have had a year long process of data collections.  
13 We've been very cooperative, like I said. We see  
14 that continuing forward. I think I can count the  
15 votes today as well, and so what we are looking  
16 for more than anything else is the ability to go  
17 back, let Steven talk to his membership, and maybe  
18 even some wayward generators. Let them understand  
19 what the scope of the request is and just get  
20 comfortable with what you are seeking. I think  
21 that really is what we are down to at this point.

22 CHAIRPERSON BOYD: Let's make sure that  
23 it is not interpreted that this was a vote against  
24 you because this discussion occurred after the  
25 action had been taken. You bring very legitimate

1 concerns, and I think you have heard expressions  
2 of urgency on our part in terms of need for data,  
3 but you have also hear expressed repeatedly a  
4 concern for protecting the confidentiality. Based  
5 on the track record that you make reference to, I  
6 think you would see that we are thinking of your  
7 best interests.

8 I think it is our desire to just to  
9 continue with this and have a very close liaison  
10 between you, your membership, the wayward  
11 generators if we can identify them, and the staff  
12 in resolving this issue.

13 COMMISSIONER GEESMAN: And the ISO.

14 CHAIRPERSON BOYD: And of course the  
15 ISO.

16 MR. KELLY: I do think I'll vote. I  
17 appreciate your comments --

18 CHAIRPERSON BOYD: I don't want you to  
19 go back and tell your membership we lost the vote  
20 because that issue wasn't there. We truly aren't  
21 reversing our vote either. So, we want to take  
22 the trust that we gained over a number of years,  
23 and put a heavy chid with regard to this one item  
24 and see if it proceeds as seamlessly as everything  
25 else has in the past such that you don't feel

1     violated in any way which is of course not our  
2     intent, nor the ISO's intent. It sounds like they  
3     are extremely protective.

4             MR. KELLY: Thank you for your time.

5             MR. HARRIS: Thank you.

6             CHAIRPERSON BOYD: If it doesn't work, I  
7     know we will hear from you about it in the future.

8             MR. KELLY: It will go somewhere, yes.

9             CHAIRPERSON BOYD: Thank you, Ms.  
10    Holmes.

11            Dare I move forward? Okay, the next  
12    item on the agenda is the approval of minutes. We  
13    have the minutes of the meeting of September 22  
14    before us.

15            COMMISSIONER GEESMAN: So moved.

16            (Thereupon, the motion was made.)

17            COMMISSIONER PFANNENSTIEL: Second.

18            (Thereupon, the motion was seconded.)

19            CHAIRPERSON BOYD: We have a double  
20    motion and a second here. All in favor say aye.

21            (Ayes.)

22            CHAIRPERSON BOYD: None opposed.

23            The minutes are approved.

24            Item 12, Commission Committee and  
25    Oversight. Any comments or any items under this



1 agenda item?

2 (No response.)

3 CHAIRPERSON BOYD: Hearing nothing, I'll  
4 move on to Chief Counsel's Report. Mr.  
5 Chamberlain.

6 MR. CHAMBERLAIN: Thank you, Mr.  
7 Chairman. I just wanted to announce to the  
8 Commission that the Commission's appeal in the  
9 Ninth Circuit Court of Appeal from the judgement  
10 of the Federal District Court here in Sacramento  
11 preempting certain portions of the Commission's  
12 compliance efficiency regulations on or ruling  
13 them invalid on ground that they are preempted by  
14 federal law has been scheduled for oral argument  
15 in the Ninth Circuit Court of Appeals on November  
16 1. We will report back to you after that event  
17 and let you know.

18 CHAIRPERSON BOYD: Very good, and good  
19 luck. Nothing else, Mr. Chamberlain?

20 MR. CHAMBERLAIN: (Inaudible.)

21 CHAIRPERSON BOYD: Thank you. The  
22 Legislative Director has left, so we will scratch  
23 that item. I have just reversed the order here.  
24 I am just trying to go up the pecking order. I'd  
25 like to hear from the Executive Director now if he

1 has anything to add.

2 MR. THERKELSEN: Good morning,  
3 Commissioners. Actually, the Legislative Director  
4 is out putting together legislative concepts which  
5 are to be submitted to resources agency yesterday.

6 In terms of last week, I was at a  
7 meeting of the National Association of State and  
8 Energy Offices. Bill Keese, as you know, has been  
9 the past chairman and is currently on the Board of  
10 that organization.

11 Previously, NASEO has focused on energy  
12 efficiency programs to a great extent to a lesser  
13 extent on R & D activities. In fact Claudia  
14 Orlando from our organization from there and made  
15 a presentation on our school efficiency program  
16 and did a very good job on that.

17 There is new leadership at NASEO now and  
18 they are looking at the possibility of changing  
19 some of the focus of that organization to broaden  
20 it to energy policy issues that are of greater  
21 importance to the states, and I was involved in a  
22 number of discussions along that line.

23 Hopefully, the role that NASEO plays in  
24 our ability to work with that organization to  
25 frankly join in partnerships with other states to

1 push things that are of a common interest to the  
2 state agencies that may not being pursued by the  
3 federal government, for example, efficiency  
4 waivers or climate change, or concerns about  
5 transmission or natural gas supply is something  
6 that organization will be more involved in in the  
7 future.

8 With that in mind, I am going to  
9 continue to be involved to some degree with NASEO  
10 as they figure out what direction they want to go  
11 and also then figure out what involvement I think  
12 the Energy Commission should have and give my  
13 recommendations to you on that in the future.

14 That is all I have to report on at the  
15 moment.

16 CHAIRPERSON BOYD: Thank you. With  
17 that, anything from the Public Advisors Office?

18 MR. BARTSCH: Mr. Chairman, Nick Bartsch  
19 representing (inaudible), I have nothing to  
20 report.

21 CHAIRPERSON BOYD: Thank you. We come  
22 to the item for any public comment. Is there  
23 anyone out there who would like to address a  
24 subject?

25 (No response.)

1           CHAIRPERSON BOYD: Let the record show  
2   there is no public. Okay, thank you very much.  
3   This meeting is adjourned.

4           (Thereupon, the business meeting was  
5   adjourned.)

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## CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,  
do hereby certify that I am a disinterested person  
herein; that I recorded the foregoing California  
energy Commission business meeting; that it was  
thereafter transcribed into typewriting.

I further certify that I am not of  
counsel or attorney for any of the parties to said  
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outcome of said matter.

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